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HUMAN RIGHTS QUESTIONS: HUMAN RIGHTS SITUATIONS AND REPORTS OF THE SPECIAL RAPPORTEURS AND REPRESENTATIVES

Situation of human rights in the territory of the former Yugoslavia

Note by the Secretary-General

The Secretary-General has the honour to transmit to the members of the General Assembly and the Security Council the report on the situation of human rights in the territory of the former Yugoslavia prepared by Mr. Tadeusz Mazowiecki, Special Rapporteur of the Commission on Human Rights, in accordance with paragraph 15 of Commission resolution 1992/S-1/1 of 14 August 1992 and Economic and Social Council decision 1992/305 of 18 August 1992 (see annex).

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ANNEX

Report on the situation of human rights in the territory of the former Yugoslavia prepared by Mr. Tadeusz Mazowiecki, Special Rapporteur of the Commission on Human Rights, pursuant to paragraph 15 of Commission resolution 1992/S-1/1 and Economic and Social Council decision 1992/305

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I. INTRODUCTION

1. Massive and systematic violations of human rights are occurring in the territory of Bosnia and Herzegovina. In other regions of the former Yugoslavia internationally recognized human rights standards are also being violated. The very nature of these violations conditions the way the mandate entrusted to the Special Rapporteur by the United Nations Commission on Human Rights must be implemented. The mandate is part of the response of the international community to the Yugoslavia crisis. It is to be recalled that this unprecedented mandate has been created by the Commission on Human Rights at its historic first special session in August 1992 to provide credible information about the human rights situation in those territories on the basis of which recommendations aiming at effective prevention of human rights violations and war crimes could be proposed. Commission resolution 1992/S-1/1 of 14 August 1992, containing the mandate, also requests the Special Rapporteur to implement his mandate on a continuing basis, in close cooperation with all United Nations bodies and other international organizations.

2. It is indispensable that the mandate be implemented in a way that has concrete and immediate effect. For that reason, it is not sufficient to limit the mandate to the preparation of reports listing incidents of human rights violations and expressing opinions which are submitted to United Nations bodies. The Special Rapporteur believes that his mandate should lead to prompt and specific measures benefiting the populations which are suffering and whose rights are being violated.

3. Since the inception of his mandate on 14 August 1992, the Special Rapporteur has carried out two visits to the territory of the former Yugoslavia and has submitted two reports to the Commission on Human Rights; a/ these reports were also made available to the Security Council (A/47/418-S/24516 and A/47/635-S/24766). The present document is the third report prepared by the Special Rapporteur and, like the two previous ones, concentrates on Bosnia and Herzegovina, which requires priority attention at the present time. Nevertheless, the Special Rapporteur has also given attention to human rights violations in the areas protected by the United Nations Protection Force (UNPROFOR), in Kosovo, Sandzak and Vojvodina as well as the general situation throughout Croatia and Serbia. It is his intention to travel also to Macedonia and Slovenia prior to the next session of the Commission on Human Rights and to report thereon to the Commission.

4. During his first visit to the former Yugoslavia, from 21 to 26 August 1992, the Special Rapporteur was accompanied by the Chairman of the Working Group on Arbitrary Detention, Mr. Louis Joinet, and the Special Rapporteur on extrajudicial, summary or arbitrary executions, Mr. Bacre W. Ndiaye, who were in a position to accept his invitation at that time. During the second visit, from 12 to 22 October 1992, the Special Rapporteur on the question of torture, Mr. Peter Kooijmans, and the Representative of the Secretary-General on internally displaced persons,

Mr. Francis Deng, were also able to join the mission. In this way it was possible to operate in parallel groups and visit a maximum number of places of concern. One forensic expert, Dr. Clyde Snow, and one medical expert, Dr. Jack Geiger, also took part in the mission, along with substantive staff from the United Nations Centre for Human Rights, and United Nations interpreters.

5. In preparing the present report the Special Rapporteur has taken into account materials received prior to and during his two missions. The amount of documentation received from both Governments, intergovernmental organizations and non-governmental sources, and from many victims of and witnesses to human rights violations, is indeed impressive. Amnesty International, Helsinki Watch and other organizations concerned with human rights provided well-documented reports. The Special Rapporteur hopes that it will be possible to evaluate all the information he continues to receive even more fully and systematically once all the staff put at his disposal are operational, including those whom he intends to place in the area.

6. The content of the report is based mainly on information received by the Special Rapporteur and his delegation directly from credible witnesses or from reliable and impartial sources. Many other allegations of atrocities have been received from the parties to the conflict, as well as from non-governmental sources and the international press. Some of these allegations are plausible and some of them no doubt will, in time, prove to be true. Yet there is also a great deal of disinformation, rumour and propaganda which, upon investigation by objective international monitors, has been disproven. The dissemination of such falsehoods only serves to dehumanize the enemy, deepen the persecution complex, fuel the flames of ethnic hatred and, ultimately, prolong the conflict. For this reason the Special Rapporteur believes that he should refrain from giving echo to such allegations before credible evidence has been received either from direct witnesses or from impartial international bodies having a mandate to monitor the human rights situation, such as UNPROFOR, the European Community and the Conference on Security and Cooperation in Europe (CSCE).

7. The Special Rapporteur wishes to express his appreciation for the cooperation he has received from United Nations agencies and other intergovernmental and non-governmental organizations which are active in the area. He would like to mention in particular the logistical support he has received from UNPROFOR without which it would have been impossible to travel to so many places in Bosnia and Herzegovina. It is to be hoped that such cooperation can be further enhanced in future with a view to monitoring the human rights situation even more effectively and thereby increasing the potential of preventing violations from occurring.

II. BOSNIA AND HERZEGOVINA

A. Ethnic cleansing

1. General observations

8. Ethnic cleansing is the direct cause of the vast majority of human rights violations which have occurred in Bosnia and Herzegovina since the present human rights emergency began, in March and April 1992.

9. The term ethnic cleansing refers to the elimination by the ethnic group exercising control over a given territory of members of other ethnic groups. A wide variety of methods are used to accomplish this end, including threats, harassment and intimidation; shooting or using explosives against homes, shops and places of business; destruction of places of worship and cultural institutions; transfer or relocation of populations by force; summary execution; the commission of atrocities calculated to instil terror among the population, such as torture, rape and the mutilation of corpses; and the shelling of civilian population centres.

10. Ethnic cleansing is often accompanied by confiscation of the property of those forced to leave, including homes, farms and agricultural equipment. In some areas, homes and farm buildings have been razed, in order to preclude any possibility of return. Departure often involves long and arduous journeys during which the displaced population is systematically robbed of savings, jewellery and other personal effects, exposed to beatings and rape, deprived of food and shelter. In many instances the fleeing population has been obliged to cross through areas of armed conflict.

11. Many of the inhumane practices employed in Serbian-controlled areas as a means of achieving ethnic cleansing also occur in those parts of Bosnia and Herzegovina under the control of the Government, and in the so-called "Croatian Community of Herzeg-Bosna". b/ According to the best information available at the present time in the areas under government control, human rights violations associated with ethnic cleansing are not committed in a systematic fashion and the violations which do occur, while they must be strongly condemned, do not appear to form part of a deliberate campaign to cleanse these areas of the Serbian population. In the areas controlled by the "Croatian Community of Herzeg-Bosna" there is somewhat more evidence of deliberate efforts to force the Serbian population to depart. However, in general a more limited range of measures is used, and the effort is not as systematic as in the Serbian-controlled areas.

12. While precise figures are not available, the number of Croat and Muslim refugees fleeing areas of Bosnia and Herzegovina under Serbian control is three to four times greater than the number of Serbian refugees and displaced persons from Bosnia and Herzegovina. The greater prevalence of ethnic cleansing in Serbian-occupied territories is undoubtedly related to the political objectives formulated and pursued by Serbian nationalists, namely, ensuring Serbian control over all territories inhabited by significant numbers

of Serbs, as well as adjacent territories assimilated to them owing to logistical and military considerations. It should be noted that ethnic cleansing is not practised exclusively in areas where Serbs form a majority of the population. In some of the cities most strongly affected by Serbian ethnic cleansing, such as Prijedor, Muslims and Croats were in the majority.

13. This lends credence to the fear that the ultimate goal may be to incorporate the Serbian-occupied areas of Croatia and Bosnia and Herzegovina into a "Greater Serbia". Whether or not this fear is justified, the rejection by de facto Serbian authorities in Bosnia and Herzegovina (and in Croatia) of integration into a multi-ethnic State in which Serbs would constitute a minority, and their claim to the right to govern themselves, are openly admitted. From advocating Serbian control over all areas inhabited by Serbs to expelling the non-Serbian population from such areas is but a small step. Croatian nationalists also bear a share of the responsibility for this extreme position, having practised discrimination against the Serbian population of Croatia, which fuelled Serbs' fears and contributed to their ultra-nationalistic stance.

14. Another factor which has contributed to the intensity of ethnic cleansing in areas under Serbian control is the marked imbalance between the weaponry in the hands of the Serbian and the Muslim population of Bosnia and Herzegovina. In 1991 war broke out between the newly independent Croatia, on one side, and the Yugoslav National Army and Serbian irregular forces in Croatia on the other. Muslims in Bosnia, then still part of Yugoslavia, sought to avoid mobilization and becoming entangled in the conflict, while part of the Serbian population of northern Bosnia joined militia forces fighting in neighbouring areas of Croatia. When Croatian independence was recognized and the Yugoslav army withdrew, many of the forces withdrawn were relocated in Bosnia. When they were subsequently "demobilized", very large stocks of military hardware remained in the control of Bosnian Serbs, and many of the "demobilized" troops remained in Bosnia to become the army of the Serbian de facto authorities. The Muslim population remained poorly armed.

15. The Special Rapporteur has received considerable evidence from many sources indicating that irregular paramilitary units have played a major role in ethnic cleansing, as well as in the commission of war crimes and other human rights violations. Paramilitary forces have been active on all sides of the conflict. Some well-known paramilitary leaders come from a criminal background and some employ professional mercenaries. Certain groups are large, with several thousand members operating under close control of their own leadership. Others are small bands, operating independently.

16. The existence of such groups has provided a useful excuse for political leaders looking for a plausible way to deny responsibility for atrocities and war crimes which they in fact condone. On the other hand, impartial observers agree that some such groups do in fact function with a degree of autonomy and that on occasion political leaders experience considerable difficulty in ensuring that their policies are implemented and decisions respected. Recently, there have been welcome signs that the most important paramilitary

groups aligned with the Government of Bosnia and Herzegovina and with the Croatian community of Bosnia and Herzegovina are being brought under control, either by integrating them into the regular armed forces or by forcing them to cease operations.

2. Situation in Serbian-controlled areas

17. During his missions the Special Rapporteur received a substantial body of evidence describing ethnic cleansing in Bosnia and Herzegovina from victims, witnesses and competent international monitors. The following are excerpts from a report prepared on the basis of testimony, received during the second mission from a number of reliable sources, which illustrates the deliberate and methodical character of ethnic cleansing carried out by Serbian forces in the Prijedor area:

(a) On 30 April 1992, armed men from Banja Luka took control of strategic positions in Prijedor. Identity checks began, allegedly because of the failure of Muslims to turn in their arms. The elected head of the district, Mr. Cehajic, a Muslim, was obliged to make a statement on the radio indicating that the political authority had changed, and calling on the population not to resist and to surrender their arms. He was then removed from office, and his place was taken by a Serb.

(b) The following week most Muslim police and military officials surrendered their arms. The television and radio began to broadcast only programmes from Belgrade. Police identity checks intensified, and Mr. Cehajic and his staff were detained. Threats by armed men became more frequent, and for the first time some Muslims suffered beatings. Later in May many leaders of the Muslim community, such as teachers, physicians and religious leaders, had their homes searched and were detained.

(c) Between 23 and 25 May, the Muslim village of Hambarine, 5 km south of Prijedor, received an ultimatum: all weapons must be surrendered by 11 a.m. Then, alleging that a shot was fired at a Serbian patrol, heavy artillery began to shell the village and tanks appeared, firing at homes. The villagers fled to Prijedor. Witnesses reported many deaths, probably as many as 1,000.

(d) Shortly afterwards, on 26, 27 or 28 May, the Muslim village of Kozarac, 20 km east of Prijedor, sufferd a similar fate. Citing the same pretext as in Hambarine, Serbian heavy artillery began to shell the town, following which an attack was launched by tanks and infantry. Some inhabitants, anticipating the attack, had dug shelters, and a few of them tried to resist with the meagre arms at their disposal. The combat lasted some seven days. Those who fled the village, including women and children, were detained in camps at Karmina, Omarska and Trnopolje. Mass arrests also took place, and those arrested were taken away in buses and trucks. The population, estimated at 15,000, suffered a great many summary executions, possibly as many as 5,000 persons, according to some witnesses.

(e) The night of 29 May tanks and infantry took up position around Prijedor, citing the same pretext as at Hambarine and Kozarac. When the attack began, Serbs from the village guided the tanks to the homes of certain Muslims, and the inhabitants were asked to come out and show their identity documents. Many of those who did were summarily executed. According to witnesses, some 200 residents of a single street (Partisan St.) were executed, and a hundred homes were destroyed. During the attack the local radio continued to call for the surrender of arms, yet not one shot had been fired by the Muslims.

(f) When the artillery barrage stopped around noon, groups of extremists, probably under the control of the paramilitary leader Arkan, began executing people, taking their victims to the street and slitting their throats, according to witnesses. The bodies of the dead were carried away by trucks, which left a trail of blood. Those who were not killed on the spot were taken to a hotel, where they were transferred to a convoy which left in the direction of Omarska (see para. 31). In the aftermath, houses which had been too badly damaged were bulldozed, and their foundations covered with fresh earth. Five mosques were destroyed, and the Muslim cemetery was razed.

(g) In mid-July, more villages in the Prijedor region were attacked. Bicani and Rokovcahi, located some 5 km to the west of Prijedor, were attacked by artillery and mortars, followed by tanks and infantry. There were many casualties, and the survivors were sent to Omarska and Keraterm. Lubjica, a Croatian village, also suffered many casualties, as did Vugovici-Selo, a Muslim village which was shelled before being attacked by tanks and infantry. The population of Gornji Puharska was forced to leave by repeated searches, which sometimes culminated in summary executions; the destruction of its mosque led to panic, and caused the population to flee their homes and seek shelter in other buildings until such time as their departure was organized; in contrast to the fate of other villages, few homes were destroyed.

(h) During the second half of August, two convoys of Muslims wishing to leave Prijedor were organized. The first, consisting of some 500 persons loaded into trucks, headed off towards Travnik, in central Bosnia. It was joined en route by a second convoy containing a similar number of persons from the towns of Kluj and Sanski Most. At some point during the journey, the men in the convoy, some 20 in number, were separated from the women and children and executed forthwith, in the presence of their wives and children.

(i) In September the last remaining mosque in Prijedor, and the Catholic church, were destroyed by explosions 10 minutes apart, at approximately 1 a.m.

18. The Special Rapporteur spoke with many victims of ethnic cleansing, in particular in refugee reception centres in Travnik, Karlovac and Posusje and in the "transit" camp in Trnopolje. A witness from the village of Resanovci, south of Bosanski Petrovac, recounted several executions he observed personally during the "cleansing" of his village early in October, including two neighbours burned to death when their home was set afire, a local leader

of the Muslim political party cut in half by a machine-gun fired at close range and three relatives whose throats were cut. He estimated that more than 60 persons were killed during two days of cleansing, including women and children.

19. In Bosnia and Herzegovina ethnic cleansing is practised systematically by Serbs in order to expel Muslims, Croats and smaller ethnic groups from areas under their control. In some such areas, including the area west of Banja Luka, the objective of ethnic cleansing has been largely accomplished. A large percentage of the Muslim and Croatian population has already left or is confined to a camp of one kind or another. The vast majority of the remaining Muslim and Croatian population is anxious to leave as soon as it is materially possible to do so. In other areas, including Banja Luka itself, a substantial percentage of the Muslim population has not yet fled, and many have not yet given up hope of being able to remain in their place of origin, despite the hardships they endure. In still other areas, such as the predominantly Muslim city of Jajce, in central Bosnia, which fell under Serbian control shortly after the return of the Special Rapporteur from his second mission, ethnic cleansing is in full force.

20. The methods used to implement ethnic cleansing in areas under Serbian control vary according to time and place. Some of those interviewed reported that they left due to harassment, discrimination and fear, without having personally experienced or witnessed atrocities. Indeed, some reported leaving due to warnings received from sympathetic Serbian friends and neighbours, or with their help. In other instances, ethnic cleansing has been accomplished through the use of the most cruel and merciless methods imaginable.

3. Situation in areas under Government and/or Bosnian Croat control

21. Information concerning the situation of Serbs in Bosnia and Herzegovina was received from Serbian refugees interviewed in Backa Topola, Bijeljina, Banja Luka and near Belgrade, as well as from Serbian prisoners interviewed in Bosnia and Herzegovina and from international observers having access to those parts of Bosnia and Herzegovina under government and Croatian control. Their testimony indicates that many Serbian refugees have fled, not because of any deliberate ill-treatment on the part of the Muslim or Croatian forces, but because they had been involved in the fighting, or because of the hardships of living in besieged cities. A man interviewed in Bijeljina, for example, indicated that he and some neighbours had taken up arms against the Bosnian forces and had fled when they suffered heavy losses in combat. Serbian refugees from Sarajevo indicated that the main reasons that they had fled were being obliged to live in basements, the constant fear and shortages of food, water and electricity. There have also been numerous reports of Serbian forces warning the Serbian population of towns and villages to flee prior to ethnic cleansing operations against Muslims and Croats. Encouraging Bosnian Serbs to resettle in areas under Serbian control is consistent with the nationalist aims and policy of the Serbian leadership in Bosnia and Herzegovina.

22. Threats, arbitrary detention and ill-treatment or torture of prisoners also contribute to the flight of Serbs from Bosnia and Herzegovina. For example, a Croatian mother from Sarajevo, whose husband is a Serb, said that Muslim neighbours had told her that her children were Serbs, and would be killed. An elderly man from the Mostar area, under Croatian control, was detained for several weeks before being allowed to leave. During detention he suffered beatings and was forced to swallow lit cigarettes. Such abuse of Serbian detainees is commonplace. His wife was expelled to Serbian-occupied territory, together with other women from the same village.

23. Arbitrary detention of Serbian civilians is also practised. The release of detained persons often takes the form of an "exchange of prisoners". Consequently, the detention of Serbs in Bosnia and Herzegovina appears to be motivated, at least in part, by the need to obtain prisoners who can be exchanged for Muslim and Croatian prisoners held by the Serbs. For example, the delegation was informed of an exchange which had taken place in Stolic on 18 August, under the supervision of the European Community monitors. The Serbian forces exchanged 400 persons, all of whom were combatants. The Croatian forces also brought 400 persons, of whom some 300 were children, women or elderly persons. Similarly, some observers also consider that Serbs placed under house arrest or confined to certain villages are in effect hostages, retained in the hope that their presence may deter Serbian shelling of civilian population centres. It is thus arguable that in Bosnia and Herzegovina arbitrary detention by Serbs is used as a instrument of ethnic cleansing, while arbitrary detention of Serbs by Muslims and Croats is largely a response to ethnic cleansing.

24. Collective expulsion of Serbs, summary execution of Serbian civilians and razing of Serbian villages do occur. They do not appear to be regular practices, however, and in any event are certainly far less widespread than in Serbian-controlled areas. In the area now under the control of the "Croatian Community of Herzeg-Bosna", some cases of burning of Serbian homes have been reported, and the Special Rapporteur viewed one destroyed Serbian village near Tomislavgrad. Efforts have been made recently to dismantle the "HOS", the extremist Croatian paramilitary force reportedly responsible for these and other abuses, or to incorporate its members into the regular armed forces. Since then, incidents of this kind have ceased, according to international monitors.

25. In central Bosnia, under the control of the governmental Territorial Defence (TO) and the Croatian Defence Council (HVO), international observers informed the delegation of the razing of two Serbian villages. The reason for the destruction of Ponihovo, consisting of some 30 homes, is not known; Zepce, a smaller village, was reportedly destroyed after the inhabitants fired on government forces.

4. Destruction of religious sites and rape as features of ethnic cleansing

26. During the present conflict many mosques, churches and other religious sites, including cemeteries and monasteries, have been destroyed or profaned. All faiths have suffered such damage, including Muslims, Catholics, Orthodox Christians, Protestant denominations and the Jewish community. On his travels throughout the country, the Special Rapporteur was particularly distressed by the systematic destruction and profanation of mosques and Catholic churches in areas currently or previously under Serbian control. The systematic destruction of such holy sites suggests a deliberate effort not only to expel the Muslim and Catholic population, but also to erase the traces of their presence. The religious leader of the Muslims of Sarajevo indicated that the number of mosques destroyed was in the hundreds. In the diocese of Banja Luka alone Catholic sources provided the Special Rapporteur with a list of 12 churches which were completely destroyed, adding that 25 other churches had been wantonly damaged.

27. Rape is another repugnant feature of ethnic cleansing. Serbs and Muslims accuse each other of systematically raping thousands of women, in particular while in detention camps. This is a particularly sensitive allegation, both because of the inflammatory way in which these allegations are being disseminated by the parties to the conflict, and because of the need to put the moral and psychological well-being of the presumed victims above all other considerations. Thus far, the Special Rapporteur and his delegation have not had sufficient opportunity to investigate these allegations carefully and thoroughly. Nevertheless, specific cases which have been investigated by impartial sources such as UNPROFOR Civilian Police (UNCIVPOL), the Office of the United Nations High Commissioner for Refugees (UNHCR) and Amnesty International demonstrate that rape is a serious problem in this conflict. Moreover, the identity of the victims, who have included young girls, old women and members of religous orders, and the circumstances in which these crimes have been committed indicate that rape is deliberately practised as yet another method of expressing contempt and hatred for the ethnic group which the unfortunate victims are made to symbolize. Islamic clergy from Sarajevo emphasized that large-scale and systematic rape of Muslim women, often very young, is one of the most tragic aspects of the plight of the Muslim population.

B. Arbitrary detention and the treatment of prisoners

1. Situation in Serbian-controlled areas

28. The Special Rapporteur has had only limited access to prisons and other places of detention in Serbian-controlled Bosnia. During his first mission, he was denied access to prisoners in Manjaca military prison. During his second mission, the delegation was allowed to visit Batcovic detention facility, in north-eastern Bosnia. However, members of the delegation who intended to visit detention facilities near Prijedor were not allowed into the area. Nevertheless, considerable information was obtained from interviews with refugees who had recently been released from prisons in this area. This information confirms the conclusions of other international delegations which have visited prisons in this region, including CSCE and French missions, as well as reports prepared by various Governments whose representatives have interviewed refugees who are former prisoners. c/

29. The camp in Batcovic contained approximately 1,000 Muslim prisoners at the time of the visit, housed in two storage buildings. The prisoners did not complain of ill-treatment and, in general, appeared to be in good health. However, they sleep on straw bedding on the floor of cavernous unheated buildings, where living conditions will become intolerable as cold weather arrives.

30. Conditions in other prisons and detention facilities in northern Bosnia are or were much worse, according to interviews with former prisoners. A ceramic factory in Prijedor known as Keraterm was used to detain several hundred persons from the Muslim villages of Hambarine and Kozarac. During the second mission, members of the delegation interviewed two former prisoners who described in detail an incident during the month of July in which approximately 100 prisoners were fatally shot, and another 40 wounded, by machine-gun fire. The dead and wounded were taken away in the same truck by the Special Police and none of the wounded returned to the camp, raising fears that they too may have perished. During the days that followed, small groups of men were taken out, lined up against a wall and shot by machine-guns, according to the witnesses. They estimate that from 30 to 40 persons were killed on these occasions. According to other sources, the execution of these prisoners is believed to have been a reprisal for the death of the brother of the liaison officer of the local Red Cross responsible for this facility, who was killed in combat at Kozarac.

31. Another camp containing approximately 3,000 persons, mainly Muslims from Prijedor and the surrounding area, was located in the mining complex of Omarska. It was operated by militia from Omarska, with interrogations being carried out by militia from Prijedor. A single daily meal consisting mostly of bread, rice and water was provided. Torture was practised regularly, in a special building set aside for the interrogation of prisoners. One witness reported that prisoners were forced to run the gauntlet in order to receive their meals. A number of witnesses interviewed by different agencies on

various occasions agreed that many prisoners were executed at this camp, and that political and religious leaders and professionals were particularly singled out for execution. One witness interviewed by the Special Rapporteur indicated that every morning an average of four or five dead prisoners were removed from the room in which he was detained, having expired during the night as a result of injuries suffered during beatings, poor nutrition and unsanitary conditions and lack of medical care. This prisoner had been detained in a room containing some 150 prisoners; if the same death rate is applied to the whole population of the camp, the daily toll would have been approximately 100 persons per day. Another witness put the death toll even higher. This camp is now reportedly closed, although many of the prisoners it contained are said to have been transferred to other places of detention.

32. Evidence of the killing of prisoners was also received from former prisoners who had been detained in Bileca and Sanski Most. A witness who had been detained in Sanski Most indicated that, after five days of interrogation accompanied by beatings, he was informed that he had been sentenced to death, and taken to a wooded area where the execution was to take place. There he managed to escape, thanks to the intervention of a Serbian officer with whom he was acquainted. A former prisoner who had been detained in Bileca indicated that those taken out for questioning returned with signs of severe beatings, and that 12 persons who had been taken out for interrogation never returned. Subsequently, when an exchange of prisoners took place, those in charge indicated that those 12 prisoners had escaped.

33. Despite being denied access to the Manjaca prison camp, the Special Rapporteur has received ample information about conditions there. Most sources give the number of detainees as being approximately 4,000 men, who are housed in large, open buildings formerly used as stables. Physical conditions were especially bad during the first several months after the detention facility was opened. Evidence of serious malnutrition, harsh discipline, strictly rationed water, poor sanitation, overcrowding, lack of proper medical care and beating of prisoners has been received from a variety of credible sources. Physical conditions have improved somewhat since the camp began to be visited by international bodies in August.

34. The administrators of this facility, who are officials of the army of the Bosnian Serbs, maintain that the prisoners are prisoners of war. However, other observers consider that most of them probably never bore arms, and were detained simply because their age and Muslim ethnic origin made them potential combatants in the eyes of the Serbian authorities.

35. The administrators of the Manjaca camp informed the Special Rapporteur that they looked forward to exchanging the prisoners at the earliest possible opportunity. This illustrates the role that detention of the Muslim and Croatian civilian population plays in ethnic cleansing: those deprived of liberty for no reason except their ethnic origin will be released only on condition that they leave Serbian-controlled territory. Few detainees are ever released and allowed to return to their homes in Bosnia and Herzegovina.

2. Situation in areas controlled by the Government and/or Bosnian Croats

36. In Zenica the Special Rapporteur visited a prison operated by the Government of Bosnia and Herzegovina. A special section of the prison contained some 80 Serbian prisoners purportedly detained because of their support for the Serbian militia. In most cases these persons appeared to have been detained on mere suspicion based on their ethnic origin rather than any concrete evidence of material support for Serbian forces. The main concern of the prisoners, apart from the lack of any substantial reason for their detention, was beatings administered occasionally by guards during the night. No complaints were made about food, medical care or living conditions, and the prisoners indicated that the director of the camp was fair and humane. Several prisoners who had formerly been detained in Visoko prison complained that they had been subjected to ill-treatment and had been forced to dig trenches.

37. During a visit to Mostar, the Special Rapporteur went to a prison under the control of HVO and met with detained Serbian civilians. The main complaints were lack of outdoor exercise and lack of contact between spouses detained in the male and female sectors of the prison. Some of the female prisoners complained of having been raped while detained in a camp, prior to transfer to the prison. When concern with these allegations was expressed to the "Croatian Community of Herzeg-Bosna" authorities, they claimed that that camp had been operated by HOS, and that it had been closed by HVO because of the atrocities committed there.

38. Among the prisoners interviewed was a group of civilians who had been returned to prison after refusing to be exchanged because they did not want to abandon their homes and farms. The prison authorities indicated that they were all suspected of contributing in some way to the war effort of the Bosnian Serbian militia, who were very active in the region. The authorities admitted that the prisoners were being held "for investigation" and that no court system is functioning in the "Croatian Community of Herzeg-Bosna". Responsibility for determining who will be detained, and for how long, thus lies with the police or military authorities. One is left with the clear impression that no serious investigation into the commission of offences is made or even contemplated, and that the majority of prisoners are detained either because of their ethnic origin, or at best because of some wrong attributed to their village or neighbourhood.

39. The Special Rapporteur also visited a group of nearly 50 Serbian prisoners in Tomislavgrad, where they were working in a field. Once again, the main complaint was that the prisoners were deprived of liberty simply because of their ethnic origin, with no idea how long their detention might be expected to last and no way to demonstrate their innocence. The men agreed that they were treated properly by those responsible for the detention facility, located in a school, but that unknown persons - possibly members of

the police or a militia group - sometimes came in the night to beat them. One man in his sixties showed the marks left by a severe beating received a few days earlier.

C. Other war crimes

40. Occurring as they do in time of war, ethnic cleansing, the arbitrary detention of civilians and the mistreatment of prisoners constitute war crimes as well as human rights violations. Other practices occurring in Bosnia and Herzegovina that also constitute both human rights violations and war crimes include the summary execution of civilians, the execution of wounded combatants, the indiscriminate use of military force against civilian population centres, and attacks on hospitals and failure to respect the Red Cross symbol.

41. The indiscriminate shelling of Sarajevo, which has caused countless civilian deaths, is well known. In addition to the physical danger, the shelling of civilian residential and commercial areas and the targeting of civilians by snipers cause great mental and psychological stress. The destruction of vital services, including water, sanitation and electricity, for which both sides share responsibility, has made living conditions primitive. The medical care available is also often primitive, owing to the shortage of medical supplies. In some cases, for example, serious operations have been performed without general anaesthesia. There is a critical shortage of heating fuel, and the great majority of residential buildings have suffered damage (such as broken windows) which leaves the residents at the mercy of the cold winter weather. The population is heavily dependent on food relief, yet flights and convoys bringing relief supplies continue to be attacked, despite agreements ensuring their safety. UNPROFOR forces responsible for ensuring the safety of relief operations also come under attack, and have suffered proportionately more casualties than in any other peace-keeping operation. During his second mission, the Special Rapporteur noted the progressive destruction of Sarajevo, as compared to his first visit in August 1992, as well as the physical and psychological deterioration of the population.

42. All sides are guilty of the use of military force against civilian populations and relief operations in Sarajevo. However, one cannot lose sight of the fact that the main responsibility lies with the Serbian forces, since it is they who have adopted the tactic of laying siege to the city. Indeed, Sarajevo is but the largest and best known of the cities besieged by Serbian forces in Bosnia and Herzegovina. During his first mission, members of the Special Rapporteur's delegation visited the Bihac pocket in north-western Bosnia, which was then and still remains under siege. Cities in eastern Bosnia and Herzegovina besieged by Serbian forces include Gorazde and Srebrenica. The central Bosnian town of Jajce, which had been under siege for several months, fell to Serbian forces in late October. In all such cities the basic pattern is the same: shelling of civilian population centres,

essential services and facilities protected by international humanitarian law, in particular hospitals and places of worship, and interference with the delivery of humanitarian relief.

43. Since the Special Rapporteur submitted his first report to the Commission on Human Rights, a growing number of reports of summary execution of civilians have been received. Reports concerning executions committed in the course of ethnic cleansing and in detention facilities have been summarized above. Reports have also been received concerning execution in other circumstances, in particular the execution of persons who have fled their homes or who have been released from detention camps and are attempting to reach areas under the control of friendly forces.

44. During the second mission members of the delegation interviewed five persons who had witnessed an execution which took place in such circumstances. The following is a summary of their testimony:

(a) On or about 21 August, while detained in the Trnopolje camp, the witnesses were given the opportunity to board four buses which arrived at the camp in order to transport persons wishing to leave for Muslim-controlled central Bosnia. Before reaching Banja Luka, the buses were joined by six other buses and two police cars which escorted the convoy. South of Skander Vakuf, the convoy stopped on two occasions, to allow the Serbian militia and Special Police accompanying it to segregate the passengers by age and sex. The young and middle-aged men were put into two buses containing some 100 persons each. Not long thereafter, these two buses stopped again, at the edge of a steep ravine at the bottom of which lay a river or stream. The occupants of one bus disembarked and were ordered to form two lines, kneeling, along the edge of the ravine. After they complied, the police and militia opened fire with machine-guns. Three of the witnesses escaped execution by lunging quickly over the edge of the cliff. The men from the second bus were then taken off in groups of three, led to the edge and shot in the head at point blank range. Two witnesses from this bus also escaped by jumping off the cliff, one sustaining serious injuries during his fall. The police and militia later fired at the bodies from the top of the cliff.

(b) The witnesses reported finding decomposed bodies at the bottom of the cliff, suggesting that similar executions had taken place on previous occasions and corroborating published accounts of the testimony of other witnesses to similar executions in the same area on other dates.

(c) Within a week all five of the witnesses were captured and transferred to a hospital in Banja Luka, where they suffered severe mistreatment at the hands of militia guards. While in the hospital they witnessed the death due to beatings of a Muslim combatant reputed to have executed many Serbs.

45. One report of the summary execution of Serbian civilians was received in September. Negotiations led to an agreement that Serbian hostages from the

city of Gorazde, under siege by Serbian forces, would be allowed to depart. However, the convoy evacuating them was attacked by Muslim forces, and between 100 and 200 civilians, including many women and children, were killed.

46. An incident involving the execution of combatants who had surrendered has also been confirmed. A report published by Helsinki Watch indicates that at least 13 Bosnian soldiers from Travnik who had surrendered to the Yugoslav National Army were executed summarily on the night of 15 May at Vlasic in central Bosnia. Autopsies indicated that the corpses of the 13 men, whose names are given, bore evidence of violent beatings and gunshot wounds inflicted at close range. The testimony of two surviving witnesses describes how the victims were killed as they were forced to crawl in a field, and identifies the force responsible.

47. The International Committee of the Red Cross (ICRC) has repeatedly stressed the need for the parties to the conflict in Bosnia and Herzegovina to respect the Red Cross symbol. The Special Rapporteur personally visited the hospital in Sarajevo and witnessed the damage caused by shelling. In one particularly grave incident, an ICRC convoy carrying medical supplies to a civilian hospital in Sarajevo was shelled, resulting in the death of an ICRC delegate and the injury of two others. While this is the only such incident involving a fatality to date, threats and harassment of ICRC and its personnel are frequent, handicapping its ability to provide humanitarian relief, to locate and pass messages to missing and separated relatives and to encourage respect for humanitarian law.

D. Humanitarian crisis

48. Bosnia and Herzegovina is in the throes of an acute humanitarian crisis, caused by ethnic cleansing and the war. The population of Bosnia and Herzegovina is estimated at 4 million persons. UNHCR, which has overall responsibility for humanitarian relief in Bosnia and Herzegovina, estimates that there is a risk that 10 per cent of the population will die during the winter as a result of malnutrition or starvation, combined with inadequate protection from the cold and lack of medical care. The death toll from these causes will very likely surpass, by far, the thousands who have already died in combat and during ethnic cleansing.

49. The humanitarian crisis has several dimensions. The groups most directly affected are the displaced, the population of besieged cities and those attempting to flee ethnic cleansing, especially those in camps. During his second mission the Special Rapporteur was able to observe all the aspects of this crisis: he again visited Sarajevo, as he had during his first mission; he visited centres for displaced persons in Travnik and Posusje, and he visited a camp in Trnopolje for persons waiting to flee northern Bosnia.

50. Conditions in the camp in Trnopolje, where 3,600 to 4,000 persons have gathered hoping to flee ethnic cleansing by Serbs, are shocking. In October

1,560 detainees were removed and taken to Croatia by ICRC as part of a plan to release all civilians in detention. Not all the detainees were evacuated, however, and the camp was filled with twice as many persons from neighbouring villages who, in their desperation, viewed the camp as a possible way to escape from Serbian-controlled territory. At the time of the visit 3,600 persons were crammed into three buildings and a few small houses, where they live in unspeakable squalor, sleeping on thin blankets and lice-infested straw, drinking contaminated water and surviving on minimum rations of bread. A physician accompanying the Special Rapporteur found that an upper respiratory infection was spreading rapidly, and that many children and adults were suffering from diarrhoea, presumably from contaminated water and very poor sanitation. Persons suffering from conditions requiring medication, including diabetics and heart patients, had no access to needed drugs. Fear of the guards who control the camp was easily perceived.

51. The camp is described by authorities as an "open" one, where the occupants can leave at will. However, the very reason that they have fled to the camp is to escape the danger to their lives and safety in the surrounding villages and towns. Since the occupants are not recognized as either detainees or refugees, only limited assistance is received from international agencies. The Special Rapporteur personally witnessed the devastation of this region, including many burned houses and razed villages. He also has received information concerning camps at other locations in northern Bosnia, which it has not yet been possible for him to visit, indicating that more persons may also be confined in similar conditions there.

52. The Special Rapporteur also witnessed dramatic conditions in reception centres for displaced persons in Travnik and Posusje. At the time of his visit, Travnik, a town of 19,000, had to accommodate 14,000 displaced persons. Since then, the fall of Jajce has led to a new exodus of some 15,000 persons. Because of the brutal treatment many of these displaced persons endured during their flight (see para. 44), many arrive in Travnik with no possessions other than a minimum of clothing, and some of them require medical treatment for injuries. Although some aid has been received, in particular blankets, food was in very short supply. Young children received only two meals a day and older children and adults only one meal, of poor quality. Moreover, the influx of displaced persons, together with the disruption of farming and supply routes by the war, was creating a food shortage affecting the entire population of this area. In Travnik and Posusje much of the displaced population is provided temporary shelter in schools and other public buildings not intended for residential purposes. Such shelters are extremely crowded, with people sleeping in rows on the floors of classrooms and corridors. Sanitary facilities are completely inadequate for the large numbers housed there. Since the visit, fighting between Muslims and Croats has broken out in Travnik and neighbouring towns, creating new dangers for the displaced population.

53. In Sarajevo, the Special Rapporteur witnessed the further destruction inflicted on the city since his visit in August, and the further deterioration

of the physical and psychological state of the inhabitants. Efforts to restore water and electricity, which were cut off around the time of his first visit, have failed because the parties refuse to allow the repair work to proceed. Ninety per cent of the teams sent to repair electrical lines have come under sniper fire. Fire-fighters likewise often come under fire when they respond to fires caused by shelling. Food is increasingly scarce, and many inhabitants have not eaten meat or vegetables for months. Lack of adequate shelter and fuel for heating are major problems, and will soon become life-threatening ones with the onset of winter. Conditions in other besieged cities throughout Bosnia are less well known, and very possibly worse.

54. According to UNHCR estimates provided early in November, the number of refugees and displaced persons from Bosnia and Herzegovina is 1.5 million. Of this number, some 322,000 have sought refuge in Serbia and Montenegro and some 400,000 have fled to Croatia. The number of displaced Bosnians remaining in Bosnia and Herzegovina is thus approximately 770,000. Since the war and ethnic cleansing continue unabated, the number of displaced continues to rise.

55. Forty-five per cent of the displaced are children and 30 per cent are elderly. These two groups are particularly vulnerable to the health risks due to malnutrition and cold, as well as the psychological harm due to uprooting and the separation of family members.

56. UNHCR estimates that the population in need of assistance throughout Bosnia and Herzegovina is 1.6 million. However, the parties to the conflict, in particular the Bosnian Serbs, continue to raise obstacles to the delivery of aid. The amount of aid reaching Sarajevo by air falls short of the target required to sustain its population of 380,000, mainly as a result of shelling which frequently prevents relief flights from landing at the airport. The main paved highway from Split to Sarajevo, which could also provide access to 380,000 persons in need of relief in central Bosnia, is only open sporadically. In recent weeks, some relief convoys have been ordered back, and at least one has been shelled. During his second mission the Special Rapporteur travelled to Vitez, where UNHCR maintains a relief distribution centre for central Bosnia, over the narrow, unpaved, mountainous route which has become known as Salvation Road. Whether or not it would be possible to keep this road open throughout the winter, as planned, is doubtful. Moreover, a new obstacle has arisen: days after the visit by the Special Rapporteur the road was closed due to the outbreak of hostilities between government forces and the HVO militia of the Bosnian Croats.

57. The local relief organizations Caritas, Merhamet and Dobrotvor play a valuable role in distributing aid to those in need. Foreign non-governmental organizations also make commendable efforts to provide badly needed relief, although effectiveness would be enhanced by better coordination between private efforts and UNHCR.

58. Delivery of humanitarian aid in areas under Serbian control is also a problem, although of a different nature. There are an estimated 50,000 displaced Bosnian Serbs in areas of Bosnia and Herzegovina under Serbian

control, as well as an estimated 100,000 Serbian refugees from Croatia. The Special Rapporteur had the opportunity to meet Serbian refugees in the Banja Luka region. While they experience some hardships, their living conditions are far better than those in the reception centres for Muslims and Croats that he visited. During the second mission the Representative of the Secretary-General on internally displaced persons also had the opportunity to speak with displaced persons and local authorities in Bijelina. There, he interviewed a Serbian refugee whom the authorities had housed in the home of a Muslim who is working abroad. After further investigating the circumstances, the Representative came to the conclusion that Muslims are being forced to leave the area by a variety of means, and that their homes are being used without their consent to accommodate Serbian refugees. Thus, the resettlement of Serbian refugees in this fashion is part and parcel of ethnic cleansing.

59. The most critical problem in the areas under Serbian control is the fate of those persons who have fled into what might be called transit camps and, in general, the population which is the victim of ethnic cleansing in these areas. The needs of this population are twofold: access to humanitarian relief, including food and medicine, and protection against violence. The violence which is used in these areas as an instrument of ethnic cleansing has been described above. Serious difficulties in the distribution of humanitarian aid also exist, owing to the hostility of local officials, and even local agencies purportedly committed to the humanitarian cause, towards Muslims and Croats. In some towns Muslims and Croats are denied medicine or medical care, and food is distributed only to those who fight for the Serbian cause and their families. In Prijedor, officials of the local Red Cross have been accused not only of refusal to distribute food aid to Muslims, but also of direct participation in ethnic cleansing.

60. The obstacles to meeting the needs of this population are at once obvious and formidable. Unless these needs can be met, lives will continue to be lost, the humanitarian crisis in other areas will worsen, and it will become increasingly difficult to think in terms of an honourable political solution to war in Bosnia.

III. CROATIA

61. During his two missions to the country, the Special Rapporteur received numerous allegations of human rights violations occurring in the Republic of Croatia.

62. In particular, the Special Rapporteur received information which reveals that ethnic minorities living in the Republic of Croatia remain vulnerable to human rights violations. For example, a number of organizations representing the Serbian minorities assert that the criteria prescribed for obtaining Croatian citizenship discriminate against residents of non-Croatian ethnic origin. The organizations charge that ethnic Croats automatically obtain citizenship regardless of the place or duration of their past residence, while

minorities living in the Republic of Croatia, despite often long-term residence, commonly experience up to six-month delays or are simply refused citizenship.

63. In his meeting with the Minister of the Interior, the Special Rapporteur expressed his concern over reports of discrimination against ethnic minorities in areas under the Government's administration, with particular reference to discriminatory practices relating to the right to citizenship. The Minister acknowledged that problems did exist in the process of obtaining citizenship, but claimed that delays of up to six months were a result of technical problems rather than discrimination. He stated that of the 3,000 people whose applications have been refused, all have been allowed judicial review of the decision.

64. Despite an existing legal framework guaranteeing equal rights for all Croatian citizens, as adopted in the Constitutional Law on the Human Rights and Freedoms and the Rights of National and Ethnic Communities or Minorities in the Republic of Croatia, passed in 1991 and amended in April 1992, the Special Rapporteur has received information of human rights violations which are incompatible with those standards. A considerable number of cases have been brought to his attention, including cases reported by the European Community Monitoring Mission (ECMM) and in the latest CSCE report. Methods of harassment include the destruction and confiscation of property, arbitrary arrest, the dismissal from employment and verbal as well as physical abuse.

65. The Special Rapporteur has received additional information that ethnic minorities who cannot obtain citizenship have, as a consequence, lost the right to maintain private business activities, to possess or sell real estate, and to free education in secondary schools and universities. ECMM has expressed concern over the confiscation if not destruction of homes belonging to ethnic minorities in the Split region, a policy which has at times become systematic. ECMM has also expressed concern over the imprisonment of ethnic minorities who have no previous political or military involvement for the sole purpose of using these people - including women, children and the elderly - in prisoner of war exchanges.

66. There have been reports as well of torture and mistreatment of Serbs in Croatian police and military custody. The Special Rapporteur received such testimony from witnesses in the Split region, including a Serbian resident who stated that he was arrested "without reason, drugged, tormented" and imprisoned. He claims to have no previous political affiliation. He was released during a prisoner exchange but his personal property, including his apartment and cash savings, were confiscated during his detention and have not been returned and he is forbidden to return to Split.

67. During their visit to Split, members of the delegation interviewed a Serbian resident of Croatia who, having already lost his job as a result of his ethnic background, continues to receive threats that his home will be

destroyed. The man was temporarily detained by Croatian military police who, he claims, badly mistreated him. His experience is common to Serbs living in the Split region.

68. The Special Rapporteur has received information from the most recent CSCE report concerning the arbitrary arrest of Serbs (report of 5 October 1992). In most of the cases reported, Serbs are charged, despite lack of evidence, with "rebellion against the State" under section 236(f) of the Criminal Code of Croatia. There have also been reports of cases of torture and mistreatment of Serbs in Croatian police or military custody. The military prison of Lora near Split was singled out in this regard.

69. According to the CSCE report, the names of Serbian intellectuals have been published in newspapers in the form of a "wanted" list and that, if located, these people may be arrested. Concern is also expressed in the report over the legal action "pursuant to section 236(f) of the Criminal Code of Croatia [which] has been taken against some 20,000 Serbs, many of whom have been tried in absentia". It should be recalled that, in his first report, the Special Rapporteur expressed his concern over the published lists of citizens of Croatia which indicated their ethnic origin and were widely distributed, and even available for sale to the public. The circulation of such lists facilitates discrimination and harassment throughout the society. Tens of thousands of persons have reportedly lost their jobs as a result. On that occasion, the mission was informed that ethnic Serbs suffer discrimination in the exercise of their political rights, in education and in their right to a pension (A/47/418-S/24516, para. 27).

70. The Special Rapporteur is concerned that human rights are threatened by an escalation of nationalist ideology which marginalizes not only ethnic minorities, but also those Croats who are critical of the present Government. This is felt by intellectuals in particular. This phenomenon is fuelled by the continuation of strict government control over radio and television. The privatization process of the media is also encountering problems, thus limiting journalistic freedom.

71. Serbian Orthodox clergy based in Zagreb reported several incidents of the destruction of church property in the Republic of Croatia. This issue was raised by the Special Rapporteur in his meetings with Croatian authorities, who asserted that the defacing or destruction of such buildings other than as a result of armed conflict was a criminal offence and would be treated as such.

72. A particular problem for Croatia is the continuing influx of refugees into the Republic. According to UNHCR, there are approximately 631,000 refugees in Croatia. Many refugees residing in Croatia live in difficult conditions and the Croatian Government is unwilling to receive a further influx.

73. Members of the delegation visited two refugee centres in the cities of Karlovac and Varazdin. The number of refugees in Karlovac varies as the

centre is used as a transit point for further travel. The delegation noted that, although the centre's facilities appeared relatively clean and food and water supplies were ample, there was no heating to counter the already piercing October chill. UNHCR felt that the refugees (mostly male Bosnian Muslims), although in relatively good physical health, were psychologically deeply traumatized.

74. The situation of the refugees in Varazdin was more disturbing. Over 3,000 refugees are housed primarily in public buildings which are no longer used. The particular site visited by the delegation was heavily crowded and lacked not only heating but basic sanitary facilities. There was no access to even basic medical care. Many refugees complained that they lacked official refugee status. In this respect, UNHCR confirmed that the refugees in the centre fall into the category of "not registered", following the decision of Croatia of 13 July 1992 not to register refugees from Bosnia and Herzegovina. This had implications on the assistance side, but also raised protection concerns.

75. The Special Rapporteur has been informed that occasionally Muslim refugees are sent back to combat in Bosnia and Herzegovina. A refugee in Varazdin described his deportation to the Bosnian border by Croatian authorities, together with a truckload of male refugees, in an unannounced midnight "roundup". The men were then forced to fight with Bosnian militias despite their desire to leave the conflict area as refugees. The witness interviewed managed to return to Varazdin. He fears the possibility of further "roundups". The Special Rapporteur raised this problem with Croatian authorities who admitted that the "roundup" was not an isolated case, but stated that only criminals are taken back to the Bosnian border. However, the arbitrary nature of these incidents casts doubt on the explanation given.

76. Because accepting more refugees would be a considerable burden on the Republic of Croatia, thousands of refugees fleeing for their lives are, at present, being refused permission to cross the border. For this reason, UNPROFOR, which controls much of the border between Bosnia and Herzegovina and Croatia, is being forced to limit their entry into the United Nations Protected Areas (UNPAs). Many displaced Muslims have been turned away at the border and some of those persons who have already crossed it, including those of military age, are being sent back by both UNPROFOR and the Croatian authorities. It is extremely regrettable that UNPROFOR has been forced to violate the principle of non-refoulement.

A. United Nations Protected Areas (UNPAs)

77. UNPAs have been created in the following areas: western Slavonia (Sector West), eastern Slavonia (Sector East) and Krajina (Sectors North and South). In most regions within UNPA borders, Serbian groups maintain de facto rule. During the second mission, members of the delegation visited Sectors East and South, where UNPROFOR and UNCIVPOL are experiencing extreme difficulty in

implementing the United Nations Peace-keeping Plan, in particular in relation to the demilitarization of the population, the demining of the area and the return of refugees.

B. UNPA Sector South

78. In Sector South, part of the so-called "Republic of Krajina", local authorities practise discrimination. Courts are still not functioning properly and the investigative processes of the local police have, in the opinion of UNPROFOR officials, almost ceased to exist. This is of great concern to United Nations staff, who collect evidence of murders, robberies, looting and other forms of criminal violence often related to ethnic cleansing. Where, in accordance with their mandate, such evidence is transferred to the local authorities, the latter are reluctant to take action, if not overtly uncooperative. UNPROFOR officials explained that Serbian militias which were to be disbanded have, in many cases, simply "changed uniforms", often working under the auspices of such groups as the Special Police, Border Police or Multi-purpose Brigades. Until demilitarization has been completed, UNPROFOR officals believe they cannot guarantee the security either of refugees hoping to return or of the remaining minority populations.

79. Many people are desperate to flee the area. Yet before being granted permission from local authorities, these persons are often forced to sign a statement that their departure is voluntary, thus confusing the legal status of their property as well as erasing evidence of ethnic cleansing. UNPROFOR officials are deeply concerned over the safety of these people as well as over the reallocation and use of abandoned houses.

80. The Special Rapporteur is particularly concerned for the welfare of the many thousands of Muslims who have fled to UNPA Sector South from massacres in regions south and south-east of Bihac. The atrocities which provoked this flood of refugees were instigated by, among others, a Serbian paramilitary group claiming to work under the leadership of the notorious Arkan, a paramilitary leader known for his brutality. The areas through which refugees must travel to reach Sector South are combed by Serbian paramilitaries. According to credible sources, Arkan maintains considerable support amongst local Knin authorities. UNPROFOR officers believe that the number of fighting forces under the Knin authorities may well total 16,000 armed men.

81. The Special Rapporteur is also concerned by the possibility of Serbian forces in the Krajina region resorting to terrorist acts. During his second visit the Special Rapporteur was informed that the Peruca High Dam, south-east of Knin, is in poor condition and is situated in an area which has yet to be demined. Although UNPROFOR is now in control of the dam site, a CSCE report has expressed fear that "Knin authorities might threaten to destroy the dam, which would result in an ecological disaster and endanger the lives of 40,000-50,000 people" who reside in the Dalmatian region. The report also

notes the vulnerability of a store of explosives near Zemunik airport which "could, if detonated, cause a seismic tremor" endangering the surrounding population of some 135,000 people.

C. UNPA Sectors West and North

82. Although the Special Rapporteur was not able to visit UNPA Sectors West and North, he has been informed by UNPROFOR officials that, in Sector North, a few formerly dislocated families have returned to their respective homes. Unfortunately, these officials believe the cases are an exception, and they are not optimistic about the future.

D. UNPA Sector East

83. The severe problems occurring in Sector South are also prevalent in Sector East. Serbian militias frequently regroup under special police units. Ethnic cleansing continues to be carried out by militias and local Serbian authorities. The few Croatians, Hungarians, Ukrainians and Slovaks who have not yet left voluntarily are faced with persistent, and often extremely violent, forms of intimidation.

84. Catholic churches have been destroyed in an attempt to erase all forms of non-Serbian institutions. Serbian refugees from other areas of fighting are being placed in the empty homes of those who have fled. UNPROFOR cannot guarantee the security of victimized families despite the placing of United Nations soldiers in targeted homes, and its officials express a sense of powerlessness to curb the violence. In effect they have not been able to demilitarize all armed groups and secure the safety of persons of non-Serbian ethnic origin who still live there or who have expressed their desire to return.

85. UNPROFOR officials have witnessed the export of feed, harvests and even livestock from UNPA Sector East into Serbia, but believe few supplies are being imported to replenish supplies. UNPROFOR is thus concerned over the possibility of widespread starvation this winter.

86. The Special Rapporteur places much emphasis on the tracing of some 2,000 to 3,000 people who apparently disappeared after the fall of Vukovar in 1991. On the basis of testimony given by witnesses from Vukovar, the forensic expert accompanying the Special Rapporteur on his second mission located a potential mass grave site approximately 2 km south-east of the farming village of Ovcara, near Vukovar. Scattered on the surface of a 10 x 30 m area of disturbed earth were four partially exposed human skeletons. All four were the remains of young adult males bearing skeletal signs of perimortem trauma. In the opinion of the forensic experts, these skeletons appear to be eroding out of a mass grave which may contain many more bodies. The discovery is significant because it appears to confirm witness evidence bearing on the disappearance of about 175 persons from Vukovar hospital during the evacuation

of Croatian patients from that facility on 20 November 1991. The Special Rapporteur has requested that UNPROFOR provide round-the-clock protection of the site and that an international team of experts begin an exhumation of the grave. Such a team could also investigate other potential sites. UNCIVPOL officials have reported that there are at least eight mass graves in the area, but this requires further investigation.

87. The Special Rapporteur has informed the Commission of Experts recently established under Security Council resolution 780 (1992) of 6 October 1992 of the foregoing and considers that this matter should be pursued further in the framework of the Commission.

IV. SERBIA

88. During his first two missions the Special Rapporteur studied the general situation of human rights in Serbia as well as questions concerning the rights of minorities and ethnic groups. The Special Rapporteur discussed these questions with representatives of the federal and republic Governments, as well as with representatives of a wide variety of organizations and political parties. There are significant differences between the views of federal and republic authorities concerning compliance with pertinent human rights standards in Serbia. The federal Government admits that the situation is far from being satisfactory, and a newly established federal Ministry of Human Rights and Minorities is taking some steps aiming at the improvement of that situation. However, the federal Government has limited competence and influence in this regard, compared to the competence of the Governments of the republics which make up the federation, i.e., Serbia and Montenegro. The leadership of the Republic of Serbia maintains that human rights are fully protected in its territory.

89. However, there is a considerable discrepancy between legal rules and norms and the actual implementation of such standards. The Constitution of the Federal Republic of Yugoslavia, promulgated on 27 April 1992, contains a broad catalogue of fundamental human rights and freedoms.

90. The absence of a democratically approved constitutional order and a firm commitment to the Constitution on the part of some political authorities, together with lack of effective procedures and mechanisms for the protection of the human rights and freedoms recognized in the Constitution, are two factors which contribute to this situation.

91. The influence of the communist system of government, with tight control of the State by political leadership and lack of an effective system of checks and balances, is still strong. In many instances and under various guises the dominant political forces are in effect the heirs of the former Communist Party. Although their political goals have been redefined, administrative and political structures are still largely run by the same persons who wielded power in the past. It can be argued that the ruling élite has turned to nationalistic slogans and is using them as a method of preserving its privileged position and power.

92. The human rights situation in Serbia is also strongly influenced by military conflict in neighbouring republics, the economic situation of the country and the lack of an effective democratic system. All these factors are interdependent.

93. The lack of more rapid progress towards the development of modern democratic institutions is due, inter alia, to the war in Bosnia and Herzegovina. The CSCE fact-finding mission pointed out, regarding the elections in Yugoslavia originally scheduled for 31 May 1992, that "the fairness of any elections in Yugoslavia will be debatable as long as hostilities continue .... Nationalistic fervor and a lack of democratic development have shrouded the people ... in a cloak of misinformation and an atmosphere of distrust".

94. The declining economy, hyperinflation and rapid deterioration of the standard of living have led to an atmosphere of general frustration and growing tension. It should also not be forgotten that Serbia and Montenegro have received some 500,000 refugees from Croatia, Bosnia and Herzegovina and Slovenia. A rapid growth in the crime rate has occurred, creating a feeling of insecurity among a large part of the society. The economic sanctions imposed by the United Nations in accordance with its Charter have also had an effect upon the everyday life of people. In official propaganda, the sanctions are described as punishment or blackmail. Only some democratic Serbian groups openly admit that sanctions have been imposed upon the authorities in Serbia because they bear main responsibility for threatening international peace and security in the region.

95. The information blockade which has existed since the beginning of hostilities in the former Yugoslavia has far-reaching consequences. The Government-controlled electronic media and press have been engaged in a one-sided and nationalistic propaganda campaign. The official media have done nothing to distance themselves from the politics of intolerance and, as a result, have fed the fires of hatred. In doing so, they blatantly disregard a well-established rule of international human rights law which prohibits advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence. It is to be recalled that in developments leading up to the bloodshed in that region, neutral television stations, such as the "Jutel", were silenced in both Croatia and Serbia, while in other instances some journalists were dismissed and others put in their place.

96. It has been observed that quite often facts are distorted, data falsified and sometimes atrocities invented or deliberately exposed in order to contribute to an atmosphere of mutual hatred. Media are using offensive and abusive appellations. The activities of various international bodies are presented in a false light and the atmosphere of siege has been created. Democratically inclined opposition political parties and human rights movements have very limited access to television and radio, and little opportunity to make their views known to the society as a whole.

97. The citizens of Serbia are deprived of the effective methods used in a democratic society to influence the policy of their Government. As a result, the Serbian population at large is a victim of the consequences of a policy which it cannot influence. This confirms once again the notion that full enjoyment of human rights is impossible without democratic development in a society.

98. The human rights situation in Serbia, in particular the development of political rights and freedoms, will have a very strong influence on the situation throughout the region.

A. Kosovo

99. Since the inception of his mandate, the Special Rapporteur has received alarming reports from various sources inside and outside the country describing the tense situation in Kosovo, in particular as regards the different forms of discrimination suffered by the Albanian population, which constitutes the majority.

100. One of the major current problems brought to the Special Rapporteur's attention concerns discrimination against Albanians in labour relations. Since the administration in Kosovo was taken over by the Serbian Government on 5 July 1990, thousands of ethnic Albanian workers in government and public enterprises have been dismissed from their jobs and many were replaced by workers from Serbia and Montenegro. In this regard the Special Rapporteur was provided with the official gazette of the Socialist Republic of Serbia dated 30 March 1990 containing a programme for the establishment of peace, liberty, democracy and prosperity in the autonomous province of Kosovo. Paragraph 17 of the operative plan of this programme stated that workers from Serbia and Montenegro were to be sent immediately to Kosovo to replace striking Albanian workers who were subsequently dismissed. The same paragraph called for the promulgation of laws facilitating the recruitment of Serbian and Montenegran workers in Kosovo.

101. Subsequently, on 26 July 1990, the Serbian parliament passed a law, called "Special Circumstance", on labour relations in Kosovo which facilitated dismissals based on arbitrary criteria and at the same time allowed recruitment of Serbs for posts in Kosovo. Workers of Albanian origin were obliged to sign, before being hired or in order not to be dismissed, a document attesting that they accepted the political and other measures taken by the Serbian authorities in Kosovo. According to many reports received, those who refused not only lost their jobs but many were expelled from their apartments. Many workers were dismissed because they persisted in using the Albanian language at work while the authorities had ordered the use of the Serbian language and the Cyrillic alphabet in public.

102. It should be noted that the mass discrimination against Albanian workers in Kosovo is contrary to the International Labour Organisation (ILO) Convention concerning Discrimination in Respect of Employment and Occupation, 1958 (No. 111), the Convention concerning Freedom of Association and Protection of the Right to Organise, 1948 (No. 87), and the Convention concerning the Application of the Principles of the Right to Organise and to Bargain Collectively, 1949 (No. 98) to which Yugoslavia is a party. The International Labour Office has reported that industrial plants have been dismantled and transferred to Serbia. The textile factory "Kuzla" in Glogovac and the construction firm "Put" have been closed and the machinery sent to Serbia. In Jakovica the central telephone system was dismantled and sent out of Kosovo without being replaced.

103. Furthermore, ILO provided the Special Rapporteur with copies of the following allegations submitted by the Union of Independent Trade Unions of Kosovo: (a) Yugoslav authorities have refused to give effect to the Union's application for registration; (b) the authorities concerned have refused to recognize the Union as an interested party in the collective bargaining process; (c) many workers and trade union officers who are members of the Union have been dismissed by reason of their participation in a strike and their refusal to be members of the Serbian Trade Union. These allegations are at present under consideration by the competent ILO organs.

104. Over 300,000 Albanians decided to leave Kosovo during the past three years, since they were not able to sustain a minimally adequate living there. Many observers fear that this movement is being provoked in many ways by the Serbian authorities and will progressively change the ethnic structure of Kosovo.

105. The policy of mass dismissal has also affected the education system. With thousands of teachers dismissed because they refused to teach the new curricula instituted by the Government of the Republic of Serbia in 1990, there has been a gradual loss of access to education by students of Albanian origin. This has not only affected primary and secondary education but also the university level. It has been estimated that some 400,000 children in Kosovo have not attended school for approximately two years because many parents did not agree to their children being taught according to the Serbian curricula. The Special Rapporteur has been informed that some dismissed Albanian professors have been offering private instruction, but in some instances police have reportedly prevented pupils from attending these courses.

106. Albanian organizations have reported that over 27,000 teachers have not been paid since April 1992. More than 800 university staff were said to have been dismissed. Reportedly, there are still a few primary schools following curricula in Albanian, but no secondary schools teach the Albanian language. On 12 October 1992, tens of thousands of Albanians demonstrated for one hour in Prishtina as well as in other towns of Kosovo, demanding the re-establishment of Albanian curricula in schools instead of teaching systems imposed by the Serbian authorities.

107. Another serious problem concerns freedom of information. Although the Serbian administration informed the Special Rapporteur that the Albanian community had more than 15 hours of radio programmes per day and was permitted to publish 15 periodicals in the Albanian language, the Albanians reported a much more restricted policy. According to them, only four periodicals are being published in Albanian at the present time, namely, Bujku (5-6 issues a week), Shkendija and Fjala (both once every fortnight), and Zeri (once a week). The existing limitations are also due to the fact that the entire printing and distribution system is controlled by the Government. As regards Albanian radio programmes, the Special Rapporteur was informed by leaders of the Albanian community that on average only some 15 minutes per day were being broadcast in Albanian, consisting mainly of a translation of a Serbian news programme. However, occasionally, especially during the visit of foreign missions, Albanian programmes are extended.

108. According to Albanian sources, 296 Albanian judges have been dismissed without reasons being given for their dismissal; moreover, Serbian judges have been appointed in their place. In addition to these arbitrary dismissals there are serious doubts about the independence of the judiciary. Furthermore, Albanian attorneys have very limited access to files, which also threatens the impartiality of the administration of justice.

109. Amnesty International reported recently that 19 ethnic Albanians were tried by the district court in Pec on charges of "association for the purpose of carrying out hostile activity" and "undermining the territorial integrity of Yugoslavia" under articles 116 and 136 of the Criminal Code of Yugoslavia and received prison sentences of between one and seven years. Many irregularities, especially with regard to the role of lawyers during the trials, have been reported regarding these cases.

110. Many allegations have been received concerning torture in police stations as well as police brutality against demonstrators, university students and high school pupils. The most frequently alleged form of ill-treatment consists of beatings with rubber truncheons and rifle butts. Complaints against the perpetrators of such abuses have frequently remained without result.

111. The Special Rapporteur on the question of torture and the medical expert accompanying the mission visited the municipal prison in Prishtina. In this prison pre-trial detainees were held together with prisoners who had been sentenced for up to six months. Testimonies were heard about an alleged case of severe maltreatment. After having consulted the file, including medical data, they came to the conclusion that it was improbable that the alleged maltreatment had occurred.

112. They also interviewed 25 witnesses who in various towns in Kosovo had been victims of police brutality when mass demonstrations against the closure of schools were violently dispersed on 12 and 13 October 1992. Without exception, their bodies showed severe bruises and sometimes serious wounds, e.g., of the eyes. It was said that the authorities had been duly given seven

days' notice about the planned demonstrations and that, since no reaction had been received, the demonstrations were legally authorized according to the law. However, when the crowd gathered the police massively attacked the demonstrators with truncheons without giving the usual order to disperse. A great number of persons were severely injured and some of them had to be hospitalized; in one case an ear had been hewn off. A number of those arrested were detained in police custody in spite of their injuries. Some of those arrested were released after a few hours, while others were summarily tried and given prison sentences of up to 60 days.

113. Allegations that Albanian doctors were dismissed from the hospital at Prishtina and that Albanian patients were discriminated against were also received. The medical expert, together with other members of the mission, visited the adult medicine in-patient wards of the hospital. The hospital staff they met were apparently Serbs. However, patients included members of all ethnic groups and medical treatment, as revealed by patients' charts, seemed appropriate. Albanian patients told the members of the mission that they had received only the initial doses of their medications from the hospital; all subsequent doses had to be purchased by family members from Albanian pharmacies and brought to the hospital. Such information was confirmed by the hospital staff but it was not clear whether this was true of all patients. Hospital physicians reported significant but not desperate shortages of medicines - antibiotics, drugs for chemotherapy and the like - and indicated that these were a consequence of the sanctions. Hospital physicians also confirmed that the primary reliance of the Albanian population was on private clinics and that they often received emergency cases that had proved to be too complex for their limited facilities. It seemed clear to the mission that medical care in Prishtina, similar to other aspects of political, social, economic and cultural life, was affected by deep mistrust between the Albanian population and the Serbian authorities.

114. It is to be hoped that the recent initiative taken by the Prime Minister of the Federal Republic of Yugoslavia, Mr. Milan Panić, with a view to establishing a dialogue between Albanians and Serbs in Kosovo, will produce positive results. In a meeting with the Special Rapporteur, Prime Minister Panić expressed his desire to stop human rights violations and discrimination against Albanians. He also agreed with the suggestion of the Special Rapporteur that the media should not exacerbate tensions in the territory of the former Yugoslavia. The approach of Prime Minister Panić is, however, violently rejected by Serbian extremist groups, which are active in Kosovo. Although the prevailing attitude of most ethnic Albanian leaders at the present time is prudent and patient, there is considerable potential for an outbreak of violence, the consequences of which it is impossible to predict. A large number of Yugoslav troops are stationed in Kosovo and recent information indicates that their number is on the increase.

B. Sandzak

115. The attention of the Special Rapporteur had been drawn by different sources to the dangerous situation which exists in Sandzak. The Special Rapporteur on extrajudicial, summary or arbitrary executions visited the area while the Special Rapporteur was in Kosovo. It was found that the region, which is inhabited by a Muslim, Serbian and Montenegran population and is situated partly within the Republic of Serbia and partly within the Republic of Montenegro, is a place of potential conflict. The human rights situation in Sandzak is affected to a large extent by the same factors which prevail in various other areas of the former Yugoslavia: war in Bosnia and Herzegovina, a strong paramilitary and military presence, the rise of nationalistic ideology, the inefficiency of the law enforcement bodies, economic crises, an information blockade and influxes of refugees.

116. Despite the apparent atmosphere of tolerance in various parts of Sandzak, including to some extent in Novi Pazar, classical methods of ethnic cleansing are employed in the region bordering Bosnia and Herzegovina. Houses and shops belonging to Muslims have been burned and mosques destroyed by terrorist attacks in the cities of Plevlja, Prijepole, Priboj and Bjelo Polje. These acts, as a rule, take the form of bombs planted in the buildings. According to the federal authorities, "besides bombs and fires, certain extremist national parties have engaged in activities - or, more precisely, extremist members of those parties have applied pressure, in the form of verbal threats and open demands - to force Muslims to leave". They also report that certain measures have been adopted to stop this situation, including the arrest of several suspects and strengthening the police forces. The Montenegran Ministry of the Interior is conducting an investigation of 11 police officers in places where public order has been threatened, including Plevlja. One can only hope that these measures prove to be effective. Nevertheless, at present there is a growing sense of insecurity among the Muslim population, which has led to a massive exodus: an estimated 70,000 Muslims are reported to have left the region since the beginning of the conflict.

117. The Special Rapporteur has been especially alarmed by a number of dramatic incidents which occurred in October, including the abduction and arbitrary killing of Muslims. One such incident involved the abduction and presumed execution of 17 inhabitants of the village of Sjeverin. The federal authorities informed the Special Rapporteur that they have taken steps to investigate that case and to prevent such incidents in future.

118. Members of the mission during their visit to Sandzak met with representatives of local authorities, non-governmental organizations, political parties and religious communities. They received various kinds of information and confronted differences of opinion, but did not have the opportunity to verify allegations concerning human rights violations. It is an unfortunate fact that all too frequently false or exaggerated information is used to pursue political goals. The Special Rapporteur believes that the deployment of the permanent CSCE mission in the Sandzak region will enable a real and impartial picture of the human rights situation in Sandzak to be obtained.

119. It is apparent that while many Muslims and Serbs continue to live together peacefully in Sandzak, and while local and federal authorities also show signs of tolerance, an outburst of violence owing to the attitudes of the military, the authorities of the Republic of Serbia or certain political leaders cannot be ruled out.

C. Vojvodina

120. While the Special Rapporteur was in Kosovo, the Representative of the Secretary-General on internally displaced persons visited Vojvodina, where he met with representatives of the federal Ministry of Human Rights and Minorities, the Serbian Commission for Refugees, the Serbian Red Cross, the Mayor of the city of Subotica, and representatives of organizations of ethnic Hungarians, Croats, Slovaks, Ukrainians and Romanians. He also visited a refugee camp and interviewed refugees from Croatia and Bosnia.

121. Vojvodina is traditionally an agriculturally wealthy and ethnically complex area. The population is composed of Serbs, Hungarians, Croats and Slovaks. Smaller minorities, including ethnic Germans, Romanians, Russians and Ukrainians, make up approximately 17 per cent of the population.

122. Since 1991 Vojvodina has simultaneously produced and received large numbers of refugees. The first major exodus coincided with the fighting against Slovenia and Croatia in 1991, and consisted in large part of Croatians, Slovenes, Hungarians and others who did not want to fight with Serbs to oppose the independence of Slovenia and Croatia. The 1991 war also generated the first influx of refugees who were fleeing both the fighting and discrimination against Serbs in Croatia.

123. The outbreak of fighting in neighbouring parts of Croatia and the influx of Serbian refugees coincided with an increase in incidents of harassment and violence against non-Serbs in Vojvodina, including rape, shootings, death threats, the use of explosives against homes and churches and forcible eviction. In a recent special report to the Human Rights Committee, the federal Government stated that "some of these people, fleeing from the conflict in the hope of saving their lives and those of their families, have arrived in the Federal Republic of Yugoslavia bringing with them their weapons, resolved to set up a new home, even if it means using force to achieve their aim, at the expense of people belonging to non-Serb nations (Croats and others), whom they regard as 'enemies' simply because they do not belong to the Serb nation". The report cites the example of Hrtkovici where 500 refugee families, including 350 former servicemen, were resettled in May 1992. A campaign of intimidation and harassment took place, including beatings and culminating in the death of one person and the departure of 600 persons who sought refuge in Croatia. The Government indicates that the Serbian Ministry of the Interior has begun an inquiry to determine whether there was any complicity by local authorities in these events, that large quantities of weapons and explosives have been seized, and that a number of individuals have been charged with criminal offences, including homicide,

illegal use or possession of weapons or explosives and "offences against the freedom and rights of persons of another nationality". However, the impartiality of the police and the courts, increasingly dominated by Serbs, and their commitment to the protection of the rights of minorities are open to question. In one case reported by the Democratic League of Croats in Vojvodina, persons convicted of having bombed the home of a leader of their organization were sentenced to only three and four months' imprisonment.

124. The town of Novi Slankamen has also been the scene of many violent incidents. A Croatian cultural centre was destroyed and a Roman Catholic church was damaged in 1991, a number of Croatian homes were damaged by machine-gun fire or explosives, one person was raped and many others were beaten or threatened. In the city of Sombor, explosives damaged a church on the night of 31 December 1991-1 January 1992, and two nights later two Croatian restaurants and the home of a leader of a Croatian political party were damaged by explosives. These crimes were announced on the local radio by the paramilitary leader Arkan. Ethnic Croatians have been told that they must leave by a certain date, under threat of death. In Subotica, where the Hungarians are the largest ethnic group, religious sites have been attacked or vandalized repeatedly since 1991. The cathedral was damaged by explosives; an attempt was made to burn a religious school; a monastery in Bac, classified as a protected cultural monument, has been attacked and damaged on three separate occasions; and several churches have suffered damage.

125. Local authorities and political leaders who met with the delegation indicated that an estimated 90,000 Croats and Hungarians and other minorities have fled Vojvodina. More refugees continue to arrive, fleeing the fighting and discrimination in Bosnia. Resettlement of refugees is coordinated by the Commissioner for Refugees of the Republic of Serbia, which has adopted a plan indicating the number of refugees who must be accommodated by each locality. In some instances, the number of refugees assigned to localities in Vojvodina is greater than 90 per cent of the original population.

126. The number of refugees being relocated in Vojvodina is disproportionate to the total number of refugees in Serbia, according to local authorities and political leaders who spoke with the delegation. The economic difficulties posed by the influx of refugees, as well as the United Nations-imposed economic embargo and poor harvests, contribute to resentment against the Serbian refugee population. The economy is still largely under public control and the ethnic leaders who spoke to the delegation alleged that dismissal of non-Serbs in order to give employment to Serbian refugees was a significant problem. In some instances, the political activities of a worker or failure to report for military service have been cited as the reasons for dismissal. In general, the large non-Serbian minority fears that the refugees may be settled permanently, confiscating the property of those who have been forced to flee and further weakening the political autonomy and cultural traditions of the region.

127. The implications of the influx of refugees from Croatia and Bosnia and Herzegovina, most of whom are Serbs, can only be fully appreciated in the context of certain political developments which have occurred during the last few years. Under the 1974 Constitution of the Socialist Federal Republic of Yugoslavia, Vojvodina, like Kosovo, was an "autonomous province". In 1987, the leadership of the Communist Party of Serbia began a campaign for the "reunification" of Serbia, that is, full integration of the two autonomous provinces into the Republic. In 1990 this campaign culminated in an amendment to the Constitution of the Republic of Serbia eliminating the autonomous status of the two provinces.

128. Although the non-Serbian ethnic groups who make up the majority of the population of Vojvodina thus lost their right to self-government as an autonomous province, they still retained control over many elected positions in local government. It is thus understandable why they fear that the large influx of Serbian refugees, and legislation facilitating their acquiring citizenship and political rights, is part of a deliberate strategy to further reduce the right of the traditional inhabitants of this region to self-government. According to information received from representatives of ethnic groups interviewed in Vojvodina during the second mission, since 1990 many Serbs have been appointed to non-elective positions, particularly in the police and judiciary. This greatly contributes to the feeling of insecurity among non-Serbs, at a time when violent incidents associated with ethnic cleansing are increasing.

V. CONCLUSIONS

A. Violations of legal obligations and other commitments

129. The preceding chapters describe the scope and nature of human rights violations occurring in those territories of the former Yugoslavia visited by the Special Rapporteur during his first and second missions. These violations transgress some of the most fundamental rules of international human rights law, including the obligation to respect the right to life and the prohibition of torture and other cruel, inhuman and degrading treatment, consecrated by articles 3 and 5 of the Universal Declaration of Human Rights and articles 6 and 7 of the International Covenant on Civil and Political Rights. These rights have the status of jus cogens; they are binding on all the parties to the conflict and cannot be derogated from in any circumstance or for any reason, not even in time of war.

130. The human rights abuses described above also constitute grave violations of international humanitarian law, in particular common article 3 of the Geneva Conventions of 12 August 1949, d/ which provides as follows:

> "(1) Persons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed hors de combat by sickness, wounds, detention, or any other cause, shall in all circumstances be treated humanely, without any adverse distinction founded on race, colour, religion or faith, sex, birth or wealth, or any other similar criteria.

"To this end, the following acts are and shall remain prohibited at any time and in any place whatsoever with respect to the above-mentioned persons:

"(a) Violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture;

"(b) Taking of hostages;

"(c) Outrages upon personal dignity, in particular humiliating and degrading treatment;

"(d) The passing of sentences and the carrying out of executions without previous judgement pronounced by a regularly constituted court, affording all the judicial guarantees which are recognized as indispensable by civilized peoples."

131. Similarly, the Special Rapporteur observed widespread, deliberate infringement of the rules of international humanitarian law prohibiting the forced movement of civilians and "acts of hostility directed against historic monuments, works of art or places of worship which constitute the cultural or spiritual heritage of peoples" (articles 17 and 16 of the Second Protocol Additional to the Geneva Conventions e/).

132. The Special Rapporteur thus concludes that elements of the policy of ethnic cleansing are expressly prohibited by international human rights law and humanitarian law.

133. The information contained in the preceding chapters also demonstrates beyond any doubt the failure to respect commitments solemnly agreed to by the parties on various occasions in London and Geneva. In particular, mention should be made of the agreement to respect the Geneva Conventions of August 1949, in particular common article 3, made under the auspices of ICRC, signed on 22 May 1992, and the Programme of Action on Humanitarian Issues adopted during the International Conference on the Former Yugoslavia (London, 26 and 27 August 1992) and signed by all parties on 27 August 1992, according to which the parties agreed, inter alia:

(a) To respect the Geneva Conventions and Protocols;

(b) That "persons who commit or order the commission of grave breaches are individually responsible";

(c) To "exercise full authority over undisciplined elements within their area";

(d) That "refugees and displaced persons should be allowed to return voluntarily and safely to their place of origin";

(e) That "all practices involving forcible displacement, all forms of harassment, humiliation or intimidation, confiscation and destruction of property and all acts involved in the practice of ethnic cleansing are abhorrent and should cease forthwith".

B. Conclusions and recommendations

134. Between the first and second missions of the Special Rapporteur in August and October 1992, ethnic cleansing has continued, and in some regions intensified. Arbitrary executions, terrorist attacks against homes and places of worship and the taking of hostages continue, primarily in Bosnia and Herzegovina but also in the United Nations Protected Areas. The victims are primarily Muslim and Croatian civilians.

135. The continuation of ethnic cleansing is a deliberate effort to create a fait accompli in flagrant disregard of international commitments entered into by those who carry out and benefit from ethnic cleansing. The continuation of this policy presumes the inability or unwillingness of the international community to enforce compliance with solemn agreements adopted under the auspices of the United Nations, and thus undermines the credibility and authority of international institutions. The international community cannot allow the London and Geneva agreements to continue to be systematically ignored and violated.

136. The Serbian authorities in de facto control of certain territories in Bosnia and Herzegovina and in the United Nations Protected Areas bear primary responsibility for the policy of ethnic cleansing carried out there. The command of the Yugoslav National Army and the political leadership of the Republic of Serbia also share responsibility for this policy, which could not have been continued until the present time without their active support.

137. Albanians, Croats, Hungarians, Muslims and other ethnic minority groups are discriminated against in Kosovo, Vojvodina and Sandzak. In some instances, violent methods characteristic of ethnic cleansing are used, and there is a real danger that widespread violence, including armed conflict, may spread to these regions.

138. Discrimination and serious violations of the human rights of Serbs also occur in territories controlled by the Government of Bosnia and Herzegovina, and to a somewhat greater extent in territory under the control of Bosnian Croats. In some instances, these violations are committed in response to ethnic cleansing by Serbs, but this in no way excuses or justifies violation of the rights of innocent persons.

139. Discrimination and other human rights abuses also occur in Croatia, in particular against Serbs, contributing to a feeling of insecurity and persecution on their part.

140. There is growing evidence that war crimes have been committed. Further investigation is needed to determine the extent of such acts and the identity of those responsible, with a view to their prosecution by an international tribunal, if appropriate. In this regard, the Special Rapporteur intends to provide all pertinent information in his possession to the Commission of Experts established pursuant to Security Council resolution 780 (1992), and recommends that the Commission should receive all necessary support from all concerned.

141. More effective steps must be taken to put a halt to ethnic cleansing in the areas where it is still being carried out. In his first report, the Special Rapporteur recommended that the mandate of UNPROFOR be expanded to cover Bosnia and Herzegovina, and to include the prevention of human rights violations (A/47/418-S/24516, para. 63). The Security Council subsequently decided to extend the mandate of UNPROFOR, but ambiguities persist as to its mandate concerning the prevention of the serious human rights violations which characterize ethnic cleansing.

142. A large number of displaced persons would not have to seek refuge abroad if their security could be guaranteed and if they could be provided with both sufficient food supplies and adequate medical care. Prompt establishment of security zones within Bosnia and Herzegovina is indispensable, and consideration should be given to expanding the mandate of UNPROFOR in this regard.

143. An immediate, concerted effort is needed to save the lives of those who are at imminent risk of death, in particular due to inhumane conditions in detention and transit facilities in northern Bosnia. In this regard, the Special Rapporteur urges all States which are in a position to do so, in particular European States, to offer asylum or temporary refuge to such persons, in cooperation with ICRC and UNHCR, in order to facilitate their prompt release and evacuation to a place of safety.

144. The international community must not acquiesce in demographic changes caused by ethnic cleansing. In this regard, the Special Rapporteur recommends that the right of refugees and displaced persons to return should be reaffirmed and protected.

145. Similarly, all necessary efforts should be made to prevent the imminent death of tens of thousands of persons living in besieged cities and areas by the immediate opening of humanitarian relief corridors.

146. The conflict in Bosnia and Herzegovina is not a religious conflict, but one which is fomented by certain nationalist groups and parties in order to further their own political and material interests. The nationalistic ideologies underlying the conflict must be counteracted by the active promotion of human rights. In order to achieve full realization of human rights, a profound and far-reaching process of democratization will be required, first and foremost in Serbia. To this end, the Special Rapporteur recommends that democratically oriented groups should be given appropriate support and assistance by the international community.

147. In his first report (A/47/418-S/24516, para. 68), the Special Rapporteur pointed out the negative role of the media in disseminating inflammatory material and disinformation, thus encouraging the climate of mutual hatred and prejudice that fuels the conflict in Bosnia and Herzegovina. In this regard, the Special Rapporteur would like to reiterate his earlier recommendation concerning the establishment of an independent international agency to provide objective coverage of the news throughout the territory of the former Yugoslavia. He further recommends that appropriate material and technical assistance be provided to independent, democratically oriented national press and media.

148. In order to have the capacity to respond meaningfully to the need for continued and systematic investigatation of serious human rights violations, and to maintain closer contact and cooperation with relevant national authorities and international bodies in the former Yugoslavia, the Special Rapporteur considers it necessary to have a small number of human rights monitors under his direction located in the territory of the former Yugoslavia, and requests that the necessary arrangements be made.

Notes

a/ E/CN.4/1992/S-1/9 and 10.

b/ The "Croatian Community of Herzeg-Bosna" is a self-proclaimed "autonomous unit" located in south-western Bosnia and Herzegovina, where a large part of the population is of Croatian ethnic origin. The political leadership, headed by Mr. M. Boban, is located in Grude. The "Croatian Community of Herzeg-Bosna" appears to command the loyalty of at least a considerable part of the "Croatian Defence Council" (a militia better known by the acronym HVO), and has a separate legislative body. It nominally supports the recognized Government of Bosnia and Herzegovina in Sarajevo, but has pursued separate negotiations with the Bosnian Serbs. Fighting has recently broken out between HVO and forces loyal to the Government (Territorial Defence, also known as the "green berets" or by the acronym "TO").

c/ Reports based on interviews with refugees have been submitted to the Special Rapporteur by the Governments of Norway, Slovenia and the United States of America.

d/ See United Nations Treaty Series, vol. 75.

e/ Ibid., vol. 1125.